



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

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JERROLD N. POSLUSNY, JR. (JP7140)  
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In re:

SHAPES/ARCH HOLDINGS L.L.C., et al.,  
  
Debtors.

Case No. 08-14631(GMB)

Judge: Gloria M. Burns

Chapter: 11

**CONSENT ORDER RESOLVING MOTION OF CERTAIN DIRECT  
GENERATOR DEFENDANTS FOR RELIEF FROM THE AUTOMATIC STAY  
TO PERMIT DISMISSAL OF DEBTORS FROM JOINT DEFENSE GROUP**

The relief set forth on the following pages, numbered two (2) through six (6), is hereby  
**ORDERED.**

**DATED: 7/28/2008**

  
\_\_\_\_\_  
Honorable Gloria M. Burns  
United States Bankruptcy Court Judge

Page 2

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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This Consent Order (the “Consent Order”) is entered into, by and between the above captioned debtors and debtors in possession (collectively, the “Debtors”) on one hand, and Boise Cascade Corp.; Weyerhaeuser Company; C-E Glass, Inc.; Rohm and Haas Co.; Cook Composites and Polymers Co. on its behalf and on behalf of Superior Varnish & Dryer and C.J. Osborn Chemicals Co.; Devoe Coatings, Inc.; Georgia-Pacific Corp.; Sears Holding Management Corp.; Ford Motor Co.; SL Industries, Inc./SL Modern Hard Chrome; Our Lady of Lourdes Medical Center; and West Jersey Hospital on the other hand (collectively, the “Generator Defendants”) (the Debtors and the Generator Defendants, singly and as a group, being hereinafter referred to collectively as the “Parties”) to resolve the Generator Defendants’ motion (the “Motion”)<sup>1</sup> for relief from the automatic stay to dismiss the Debtors from the Joint Defense Group.

WHEREAS, the Debtors filed their respective voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) on March 16, 2008 (the “Petition Date”).

WHEREAS, prior to the Petition Date, one or more of the Debtors were a party(ies) to the Joint Defense Agreement.

WHEREAS, on or about June 9, 2008, the Generator Defendants filed the Motion seeking to dismiss the Debtors from the Joint Defense Group.

WHEREAS, the Debtors have disputed the Motion and have informally raised certain issues related to the Motion.

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the same meanings ascribed to them in the Motion.

Page 3

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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WHEREAS, the Generator Defendants have informally disputed the issues that the Debtors informally raised.

WHEREAS, the Parties desire to settle the Motion as set forth herein.

WHEREAS, A&H Bloom Construction Co. and the Bloom Organization (collectively, “Bloom”) were not signatories to the Motion, but must execute this Consent Order as a member of the Generator Defendants joint defense group.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Debtors and the Generator Defendants hereby stipulate and agree as follows:

1. The foregoing Background is incorporated herein by reference.
2. The Motion is resolved as set forth herein.
3. The Debtors shall be deemed no longer a member of the Joint Defense Group as of the Petition Date.
4. Within ten days of entry of this Consent Order, the Joint Defense Group shall pay to Debtors’ counsel \$28,172, which amount represents two wire transfers from Debtors’ counsel to the Joint Defense Group account. Additionally, the Joint Defense Group shall return five checks totaling \$3,656 to Liberty Mutual Insurance Company, which checks were never deposited into the Joint Defense Group financial account.

Page 4

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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5. The Parties stipulate that the expert reports issued on behalf of the Joint Defense Group (“Expert report of Charles F. McLane, Ph.D., May 23, 2008 prepared for Generator Defendants,” “Expert report Prepared for Direct Generator Defendants, May 23, 2008 Prepared by Cornerstone Environmental Group, LLC,” “Expert report Prepared for Direct Generator Defendants Prepared by Muriel S. Robinette, New England Envirostrategies, Inc., May 23, 2008,” “Supplemental Expert Report Prepared for Direct Generator Defendants, July 10, 2008 Prepared by Cornerstone Environmental Group, LLC,” “Supplemental Expert Report of Charles F. McLane, Ph.D. July 10, 2008 Prepared for Generator Defendants,” and “Rebuttal Report Prepared for Direct Generator Defendants Prepared by Muriel S. Robinette, New England EnviroStrategies, Inc., July 9, 2008” as well as any amendments, supplements or updates thereto (collectively, the “Expert Reports”)) shall not be deemed an admission by the Debtors or Ben LLC in the Pennsauken Action or any other pending or future litigation in any other manner including but not limited to arbitration, administrative hearing, mediation, or other forum.

6. Neither the Joint Defense Group nor any of the Generator Defendants or Bloom shall use the Expert Reports for any purpose against the Debtors or Ben L.L.C. in any pending or future litigation in any other manner including but not limited to arbitration, administrative hearing, mediation, or other forum, provided, however, that nothing herein or in the Plan or Confirmation Order shall be construed to in any way to limit, bar or preclude the Generator Defendants from using the Expert Reports as evidence or in arguments to support a reduction and/or credit to the Generator Defendants either individually or to the Joint Defense Group that

Page 5

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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reflects a proportionate share of responsibility, if any, allocable to the Debtors at trial or during any allocation, ADR process, or legal proceeding in the Pennsauken Litigation.

7. Upon entry of this Consent Order, the Debtors on one hand and the Joint Defense Group and each of the Generator Defendants including Bloom on the other hand, hereby generally release and discharge each other, their predecessors, successors and assigns, their agents, and all attorneys, including but not limited to attorneys in the Pennsauken Action, from all claims which each party may have against the other for all claims relating only to allegations of breach of confidentiality or for violation of the automatic stay. The Parties, however, reserve the right to seek recourse against each other if the Debtors, the Joint Defense Group or any of the Generator Defendants including Bloom breach the confidentiality provisions of the Joint Defense Agreement after the entry of this Consent Order.

8. Unless otherwise specified in this Order, the Generator Defendants and the Debtors continue to be bound by the terms and conditions of the Joint Defense agreement.

Page 6

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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Page 7

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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Page 8

Shapes/Arch Holdings L.L.C., et al.

Case No. 08-14631 (GMB)

Consent Order Resolving Motion of Certain Direct Generator Defendants for Relief from the Automatic Stay to Permit Dismissal of Debtors from Joint Defense Group

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